

## Opinion of the Court.

section of the act of 1882 was more immediately under consideration, but the reasoning applies to the sixth section as well.

Counsel for petitioner do not urge the insufficiency of the decision of Assistant Secretary Spaulding, therefore we may consider that it is conceded to have been made by the authority of the Secretary. The District Court, however, in its opinion, seems to imply that, if there had been no hearing by the Secretary, the court, nevertheless, would have been without jurisdiction to restrain the deportation of the Chinese persons. On that we do not think it is necessary to express an opinion. There is an intimation to the contrary by the Circuit Court of Appeals of the Ninth Circuit in the case of *United States v. Gin Fung, supra*.

*Judgment affirmed.*

MR. JUSTICE BREWER and MR. JUSTICE PECKHAM dissented.

MR. JUSTICE GRAY did not hear the argument and took no part in the decision.

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GALLAWAY v. FORT WORTH BANK.

MOTION TO SUE OUT WRIT OF ERROR, WITHOUT GIVING BOND  
REQUIRED BY LAW.

Submitted May 19, 1902.—Decided June 2, 1902.

The act of Congress of July 20, 1892, 27 Stat. 252, has no application to proceedings in this court.

THE case is stated in the opinion.

*Mr. A. Gallaway in propria persona.*

No appearance opposing.

THE CHIEF JUSTICE. This is an application for leave to prosecute a writ of error to a state court, without giving security

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as required by section 1000 of the Revised Statutes, under an act of Congress of July 20, 1892. 27 Stat. 252.

The motion must be denied. Our ruling has uniformly been, and has been enforced in repeated instances that that act has no application to proceedings in this court.

*Motion denied.*

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HATFIELD *v.* KING.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF WEST VIRGINIA.

No. 221. Submitted May 2, 1902.—Decided June 2, 1902.

This case having been decided below on demurrer, and having been brought to this court on appeal, and it appearing that the appearance of one of the defendants below was improvidently entered, and certain charges having been made involving the conduct of counsel, the case was remanded, for reasons stated, to the Circuit Court for the Northern District of West Virginia, to be dealt with, 184 U. S. 162, notwithstanding that while it was pending here that State was divided into two districts, 31 Stat. 736, c. 105, and ordinarily the case would fall within the Southern District. On motion to change the decree to that effect, the court, in view of the terms of the act and the situation of the case, declined to modify it.

THE case is stated in the opinion of the court.

*Mr. Holmes Conrad* for appellants.

MR. CHIEF JUSTICE FULLER delivered the opinion of the court.

In this case a decree was entered in favor of King on June 2, 1900, in the Circuit Court for the District of West Virginia, from which an appeal was allowed to this court, and the case docketed, and the record filed, January 3, 1901. Subsequently certain motions were made, on the submission of which it was contended by appellants that the decree against them ought to be set aside because they had not had the hearing in that court